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NOTES OF THE WEEK

Writing Them Up

Journalists find plenty of interesting copy in the magistrates' courts, and there are various ways of dealing with it. There is the reporter who sets out to record exactly what takes place in plain language, giving the very words of the parties, witnesses and magistrates whenever he quotes them at all. This he does as a rule with remarkable accuracy, and if what ultimately appears in the newspaper is abridged and seems inadequate that is his misfortune and not his fault. Considerations of space often compel compression at the hands of the editor.

Then there is the journalist who does not profess to report proceedings as faithful accounts of what actually occurred in a particular case on a given day, but rather as interesting and entertaining sketches of life as revealed in the courts, always founded on fact, never definitely misleading, but not intended to be taken too seriously as accurate in detail. These are popular, and often written with literary merit and a shrewd insight into human nature. There is no need to criticise them for not being something they are not meant to be. Between the two, and adopting something of the methods of each, there is the reporter who is scrupulously accurate about facts, but who in presenting them, adds descriptive matter to enliven the statement of facts. He may enlarge a little on the appearance of the defendant or some other person prominent in the case, perhaps commenting humorously on something unusual in dress or appearance, perhaps admiringly referring to "a good-looking girl with blonde hair and pretty blue eyes," or by contrast, describing a man as "looking dejected in his shabby threadbare suit of ancient cut," or otherwise adding picturesque detail to what might be a dull story. This is good journalism, no doubt, and we do not criticise it. We have just one small suggestion to offer. It may be bad for a boy or girl to read an account of the case in which he or she is concerned, if it is written so as to make him or her feel clever, important, or interesting, possibly as a baffling problem. The defendant may be all this, but it is better that he or she should not think so. We have even known a boy with a record of appearances in juvenile courts to keep a file of newspaper cuttings (in which of course he appeared anonymously) and to show them with pride to other juveniles waiting to go before the court. That is bad enough. It becomes worse if the offender has been written up in somewhat flattering terms by a clever journalist.

Breach of Probation

We often read in the newspapers of a person being sentenced perhaps to imprisonment, for breach of probation. This is not usually an apt description of what has taken place. There is a distiction to be drawn between being dealt with for breach of a requirement in a probation order and being sentenced in respect of the original offence. In the former case the probation order continues in force, and the probationer is fined or ordered to attend at an attendance centre as a punishment for disregard of his obligations, but in the latter case he is sentenced for his original offence in respect of which the order was made, and the probation order comes to an end. He is not being sentenced for breach of probation, but because of the breach, for the original offence, a distinction with a difference.

When an offender is placed on probation he is warned that if he fails to comply with the requirements of the order he will be liable to be sentenced for the offence, and he, and the public who may read what happens to him, should realize that he is not being subjected to what might appear a severe sentence merely because he has failed to comply with a requirement in a probation order. It is because, having had the question of sentence suspended for the time being in order to try him out, he has failed to respond to leniency and has thus incurred the liability to punishment in respect of which he was warned. It is the original offence that is, as it were, revived by the breach, and not the breach itself, that is dealt with by the court.

We do not advocate suspended sentence as preferable to probation, but

one point in its favour is that the offender who has heard his sentence pronounced and then suspended will realize, if subsequently he has to be brought back before the court for the sentence to take effect, that it is the original offence and not his failure to do what has been required of him, that is the subject of the sentence he now has to face.

The Red–Amber Light Signal

Only experience coupled with the keeping, and comparison, of careful records can enable us to judge whether the disadvantages of the red–amber period in the sequence of traffic lights outweigh the advantages. At intersections where there is considerable pedestrian traffic one great advantage of the red–amber signal is that it warns pedestrians (or those of them who bother to look at the lights) that the stationary traffic will soon be on the move. If drivers obey the signals and do not move off before the green light shows, the red–amber period thus gives an opportunity for the crossing to be free of pedestrians before the traffic which has been stationary starts to move.

There is no doubt, unfortunately, that drivers are very prone to start to move as soon as the red–amber light shows. Equally, traffic which has been running on the green light is very inclined to continue to run on the amber light with the inevitable risk of collision with traffic which has started to move on the red–amber or, worse still, has not stopped because the red–amber came up as the light was reached.

It may be found that the abolition of the red–amber period will encourage the practice of not stopping on the amber light, because the driver travelling in that direction will know that the crossing traffic cannot start until his light has changed from amber to red and he will feel that he has that extra bit of time to " beat the light " and get over the crossing without stopping.

These, of course, are mere speculations on our part. The experiment to be made in Leicester and later in Wolverhampton, Brighton and Hove and Northampton, will enable the authorities to watch what actually does happen. To get the full value from the experiment a very close watch will need to be kept on the behaviour of all road users at traffic lights in these places. It is stated in a Ministry of Transport and Civil Aviation press notice of December 23, that in Leicester all the signal installations have been overhauled and accident records for 12 months, and traffic behaviour, have been studied while the lights have been working " normally." This should give a fair basis for comparison with the records for the 12 months of the experiment. We incline to the view that the red–amber period is valuable *if drivers play the game,* but unfortunately too many of them do not.

Child Cyclists and Road Accidents

Road safety instruction for children is having its effect, and one can often see small parties of children (frequently an older child in charge of younger ones) carefully observing the proper precautions before starting to cross a road and then, when they do cross, crossing without delay. But there are still accidents to children which need not have happened. The November, 1958, number of the Essex County Constabulary Road Safety Office *Accident Bulletin* gives particulars of five such accidents to child cyclists in that county during November. Two of these emphasize dangers which are avoidable. The first is that a cycle which is too small for a child is as likely to lead the child to lose control of his machine as is a cycle which is too large; the other is that loose parcels of any kind (in the instance in question it was a football) are always a source of danger. The football lodged between the boy's knees and he lost control. Other sports gear is often carried similarly, and is always a potential source of danger. Anything to be carried should be secured by clips, or otherwise, to the bicycle so that it does not impede the rider's control and leaves his hands free to manoeuvre his machine properly.

The same Bulletin calls attention to the greater liability of motor cyclists to accidents during the winter months when road surfaces are treacherous and emphasizes the importance of their travelling at reduced speed in order to retain full control of their machines.

Many of the points made in these road safety bulletins and in other road safety propaganda may seem to be too obvious to need making, but experience shows that elementary mistakes are constantly being made, in haste or from thoughtlessness. It is only by working on the principle that " constant dripping wears away a stone " that one can hope to keep these elementary truths so much in the forefront of people's minds that they will instinctively do the correct thing and the number of unnecessary accidents due to such mistakes will be noticeably reduced.

Penalties

The fines imposed by magistrates' courts are from time to time subjected to criticism on two grounds. The first is that maximum fines fixed long years ago have become inadequate in the light of the vast change in the value of money and the increase in salaries and wages. That is a matter beyond the power of magistrates to deal with, and the most they can do is to make representations through the appropriate channels for the consideration of Parliament. The second kind of criticism is based on the fact that maximum fines, or fines nearly approaching the maximum, are rarely imposed, and it is said that magistrates might well impose higher penalties nowadays than were imposed at a time when incomes were generally much smaller than today's.

We have received from a clerk to justices a tabular statement, which we print at p. 42, *post,* which supplies some useful information about the fines imposed in his particular division for offences of various kinds. Other clerks may have compiled similar statements, and we shall be interested to hear about the experience and views of magistrates and clerks on the subject.

Evening Courts

From time to time the suggestion is put forward that magistrates' courts should hold a certain number of sittings in the evening, so that parties and witnesses could attend without interference with their work. This consideration might also apply to some magistrates. This sounds reasonable enough, but we have heard that in some areas where the scheme has been tried it has not proved popular.

In the evening most men wish to have a substantial meal, and that means that the wife generally has to cook it. If there are children, the mother may be needed at home and find it inconvenient to have to attend the court. Juvenile courts, in particular, often require the attendance of the mother, and it is hard on her either to be summoned to an evening court or to be kept there late because an afternoon court has been unduly prolonged. On the whole, the arguments against evening sittings, save brief special courts held because someone has been arrested and should be brought before a magistrate at the earliest possible time, seem to impress those concerned more than the arguments in favour.

Another aspect of the matter was illustrated recently when Sussex justices

began to hear a case of some importance after 6 *p.m.* A solicitor asked that the hearing should be adjourned, and said that the former Lord Chief Justice had said it was not fair to defendants or witnesses to continue cases to a late hour and in particular to begin a case at the end of most people's working day.

It is quite true that most people would not be at their best as parties or witnesses if tired by a hard day's work, and it is also true that magistrates may become tired, especially if they have already dealt with a number of cases demanding close attention and thought. Of course they might come quite fresh to an evening sitting if they had not sat or engaged in other exacting tasks during the day, but there would remain the question of the parties and witnesses. Perhaps the best answer to the question is to hold late sittings only when everyone, or almost everyone concerned, desires such an arrangement.

No doubt someone would be sure to protest that it would interfere with television, on which so many people nowadays base their arrangements for the day!

Councillors and Contracts

We spoke at 122 J.P.N. 182 of the decision by magistrates at Wisbech, in the case which later went to the Divisional Court and is reported as *Rands* v. *Oldroyd* (1959) 123 J.P. 1; [1958] 3 All E.R. 344. We thought the magistrates were right in law, and the Divisional Court confirms our view. Section 76 of the Local Government Act, 1933, took the place of earlier provisions which not only differed between different local authorities but had become almost unworkable in the face of modern developments in business. Moreover, although the section is not proof against evasion, it is the statutory enactment of an important principle, despite the complaints which are made from time to time that it hits co-operative societies, or council tenants, or commercial men, or professional men like estate agents and solicitors. Considering how many people it affects, it has produced very little case law, and we welcome the decision in *Rands* v. *Oldroyd* as stopping one gap in the protection afforded by the section, even though at first sight it looks hard on the councillor involved. He was in business as a builder, but his firm had not for some years undertaken council work, and when he became vice-chairman of the council's housing committee the firm decided as a matter of its own practice that it would not tender for the council's contracts. (The firm would have been entitled to do so under s. 76 of the Act of 1933, as it could not have done under the older law without his incurring the penalty of disqualification: one respect in which the Act of 1933 is more favourable to business people than the older law.) The decision not to tender was the decision of an honourable man and, having so decided, the councillor honestly believed that he had no interest, direct or indirect, in the council's building programme. In this belief, he took part in discussion of a motion that the council should embark upon an experiment in direct labour. The report states that, in resisting the motion, he called attention to practical difficulties in the light of his knowledge of the trade: it was no doubt of advantage to his colleagues to have guidance in this way from practical experience.

But, as we said in our earlier note, the firm could have changed its practice, or the councillor could have resigned or lost his seat, when his firm's reason for avoiding council work would have ceased. The motion which was being discussed was not upon the allocation or terms of a particular contract, but upon policy, and a decision to continue going outside to tender, excluding direct labour, might have governed the council's action for many years, long after the councillor concerned had ceased to be a councillor. The decision of the Divisional Court seems, therefore, to accord with the merits, as well as with what we had previously thought the law to be.

NOTICE OF INTENDED PROSECUTION

Questions arise fairly often about the scope and effect of the warning to be given to a motorist in order to satisfy s. 21 of the Road Traffic Act, 1930. Several decisions have been given by the Divisional Court, and it seems fair to say that the Court has been unwilling to construe s. 21 strictly in favour of the motorist. A good illustration is in *Pope* v. *Clarke* (1953) 117 J.P. 429. A motorist had been involved in a collision, and within the period named in s. 21 he received a written notice from the police saying he was to be charged with dangerous driving by which the collision had been caused, at a certain place at about 1.15 *p.m.* on a certain day. The day and place were correctly stated in the notice but the time was wrong—the collision had occurred some two hours before the time stated. The Divisional Court held that the notice was sufficient. The purpose of s. 21 is to enable the motorist to set about preparing his defence, while the facts are clear in his own mind and before it has become too difficult to get in touch with witnesses. An error in stating the hour of the alleged offence would not prejudice the defendant so long as the day and place were correctly stated, except in the almost impossible event of his having been at the same place twice in the same day, and having been each time involved in a collision at that place. That was, however, a comparative simple case. More difficult cases include one which was lately sent to us: whether a notice is effective to support a charge of dangerous driving when it correctly gives all the relevant facts, but says that the motorist is to be charged with driving without due care and attention. There are two decisions which have a bearing upon this question, though neither gives the answer. In *Milner* v. *Allen* (1933) 97 J.P. 111 the notice under s. 21 foreshadowed a prosecution under s. 11, but the summons when it came was for a less serious offence under s. 12—the converse of the question put to us.

The Divisional Court said that the notice was effective; it had to specify "the nature of the offence" not necessarily the particular offence. In *Venn* v. *Morgan* (1949) 113 J.P. 504, the problem was different: the notice mentioned s. 12, and the offence charged was under s. 12, but the notice gave an insufficient description of the facts alleged to constitute the offence. Stable, J., in a minority judgment thought the notice bad; the majority of the Court thought that it was good, inasmuch as it plainly pointed to an offence under s. 12, for which the summons was later issued.

Now some lawyers think the purpose of s. 21 is achieved by a notice which gives all the facts required to enable the motorist to prepare his defence and communicate with his witnesses, and they therefore regard as technical and unmeritorious the defence that the three offences under s. 10, s. 11, and s. 12 are distinct. We have, broadly speaking, advised

more than once in this sense. It has, however, been thought by some people that in so advising we have not given full weight to the terms of s. 21 itself. These critics point out that upon a charge of dangerous driving a motorist can be convicted of the less serious offence of careless driving, but that the contrary is not true, and it has been suggested to us that we ought to show how an opinion opposite to our own is supported. This we gladly do, for the question is highly important, both to our police readers and to motorists and their legal advisers.

We shall begin by analysing s. 21. This section provides in the first place for giving a car driver notice on the spot that proceedings against him are to be considered; when this is done all that the section requires is to tell him that there may be proceedings for "an offence under some one or other" of the three sections creating the offences. The person giving the warning is, by the express language of the section, left free to take any one of several steps when there has been time for consideration.

At that stage the warning might be given by an angry pedestrian or by another motorist, as well as by a policeman; the nature of the warning is naturally left open, because such a person will not be in a position then and there to decide what charge is appropriate. In practice, however, this oral notice is not usually given, and the section goes on to provide in its place that there may be a summons within 14 days or that there may within 14 days be a written notice of intended prosecution. This written notice need not come from the police, but in practice it almost always does, and by that time the police and their advisers have had an opportunity to consider what is the appropriate charge—as they would have had to do if they had applied for a summons within the 14 days instead of giving the notice. The written notice, therefore, although it need not specify the actual offence which is being considered must specify "the nature of the" offence which is being considered—it is not enough to state that prosecution for "an offence" is being considered.

As we have said, we have inclined to the view that, reasoning from *Milner* v. *Allen, supra*, a notice specifying a less serious offence will support a summons for a more serious offence, because it is facts that matter. This means that a defence upon the ground that the wrong section was mentioned is wholly technical.

Against us, it has been pointed out that, if a man could be convicted under s. 11 after a notice which mentioned a s. 12 offence, so also could he be convicted under s. 11 or s. 12 after a notice which mentioned a s. 10 offence—for s. 21 treats ss. 10, 11, and 12 on the same footing for purpose of the notice. Now s. 10 (2) says that a first or second conviction under that section shall not disqualify the defendant for holding a driving licence, and so does s. 12 (2), whereas s. 11 (3) makes disqualification normally compulsory upon a second offence. Section 11 (2) also makes endorsement of the licence obligatory upon conviction under that section.

It follows that a man who thinks he is to be charged under s. 10, or even under s. 12, may feel that less is at stake than there would be on a charge under s. 11. He may be led to think that nothing worse than a fine will happen, and be prepared to risk a fine rather than put himself, and his friends who might be called as witnesses, to a good deal of expense and trouble by arranging to defend the case seriously.

If, therefore, he finds himself charged under s. 11 several weeks after the event, when the notice given him within a fortnight spoke of s. 10 or s. 12, he will have been led into a trap. We do not suggest that this argument would hold good, but the moral is that the police should where possible make up their mind within the fortnight, and, in case of doubt, should safeguard the position by a notice naming s. 11; they can after doing so apply for a summons under s. 12, if their advisers consider on going further into the facts that a charge under s. 11 is not justified. This is what was done in *Milner* v. *Allen, supra*.

OLD LAG'S LAW

By NICHOLAS PERRY

My interviews with George were invariably one-sided. At the beginning of his period on licence, when I had some hopes of implanting socially-acceptable standards of behaviour in him, I resented his control of the conversation. Once I had rudely suggested that he sat in my chair behind the desk while I sat in the client's, but he neither took the offer nor offence. Nowadays I look upon his fortnightly visit to me as a 15-minute lull in a long evening of interviews, and I sit back and let his words wash over me.

Last night he brought two old newspapers with him. He had marked certain items with an ink perimeter; these he suggested I perused before he began his discourse. STEEP RISE IN CRIME ran one headline. The report stated that the rising trend in crime continued in 1957 according to the Criminal Statistics just published by the Home Office. The next column contained a report of the Labour Party Conference. Mr. Harold Wilson was declaring that a Labour Government would carry through a policy of expansion, of economic and social progress, of full employment, full production and stable prices.

These phrases were repeated, with minor changes, in the second newspaper which carried a report of the Conservative Party Conference at Blackpool. I read the three items through carefully, sat back, and asked George what it was all about.

"I want to utter a prediction, and I should like you to make a note of it on my record," he began portentiously. "I predict that crime will continue to rise during the coming year in direct proportion to the rise in the standard of living." I made a great show of copying this down in my day book, while he waited with the air of Moses about to deliver the next Commandment to the stonemasons for immediate chipping.

"I had an opportunity," he said, "when in Wakefield open prison, to study both psychology and economics. During the post-war years the standard of living of the working-classes has gone up no end. They have had a spending spree. They have taken home fat wage packets. They have filled their houses with television sets, sink units and Crown wallpaper. The teenagers buy radiograms and records. Some housewives have had spending fatigue, not knowing how to get rid of the money before the wage packets are once again placed on the sideboard."

"Offences of robbery with violence, breaking and entering, and larceny, are committed in the main by members of the working-class," he continued. "But not by the

hard-working members. The criminal stratum is composed of the work-shy, the lay-abouts. They live on national assistance, and blame the board for not making an allowance for the purchase of television sets, sink units, and tricycles for the toddlers. They work for a few weeks every year so that they can call themselves 'salesman' or 'builder's labourer' and so on when their names appear on the court list. This makes them appear respectable, which they're not."

The waves were washing over me now, but outwardly I hoped I gave the impression of being keenly alert. "In the days of the slump," George went on, "wages were so low that the gap between worker and non-worker was small. Crime was much less than it is today. Keeping up with the working-class Jones in the nineteen twenties and thirties was no effort at all. But today the gap between the lay-abouts and the regular workers has widened so much that to keep up with the industrious Joneses the lay-about resorts to robbery. Otherwise he would not have a television set, never spend the week-end in a public house, never invest in the pools, and never delight his bookmaker with a display of accumulators and any-to-come."

"Take these big wage grabs that you see in the paper every night. What are they but symbolic stealing? These men want wages but won't work to get them, so they grab them in bulk, sufficient for two or three years."

He paused, so I had to come to the surface and ask him what it all meant.

"I've formulated a law, something like Parkinson's but much better, more serious. This is it: Crime increases in proportion to the rise in the standard of living, to fill the gap in income between the lay-abouts and the regular workers."

He looked at me expectantly, so I picked up my pen and copied down at his dictation. When he spoke again his portentiousness had gone; there was appeal in his voice.

"As a matter of fact, Mr. Perry, I'm broke, so I'll sell you the idea. You can call it Perry's Law. Isn't it worth a quid to perpetuate your name, and to keep me from doing a job tonight so that I can keep up with the Joneses?"

I gave him half-a-crown from the Police Court Mission, got him to sign a receipt, and ushered him to the door. There he paused.

"Here's a good tip. Both the big political parties have got a programme which will inevitably cause the standard of living to rise. They say so in these newspaper reports. Now whichever party wins the next election, you can sell Perry's Law to the losers for propaganda purposes. For the Government's policy will result in a rapid rise in crime, and this can be laid firmly at the Government's door by the Opposition. Goodnight."

A MAGISTRATE IN THE TITO RÉGIME

By ARTHUR MADDISON

The talk of a new prison being built at Belgrade, quite understandably, aroused my social curiosities during a three-weeks' stay in Jugoslavia. Was it to house more "political" prisoners? Or to create room for more civil offenders?

Yet Belgrade, as the centre of a monolithic society, is remarkable for the few policemen to be seen. A policeman is almost as rare as a public convenience—the visitor has to find one in order to discover the other.

It was fortunate for me that I was able to stay at the flat of a young lawyer who spoke English, and who was able to answer some, if not all, of my many queries.

Actually, it was claimed that a new prison is being built to replace the old, grim prison buildings where Serbian defaulters were confined by their former Turkish masters.

It was emphasized that most of the people in the cells were ordinary offenders—the number of political prisoners being now so small as to be insignificant.

As is to be expected, the Tito régime, despite its schism with Moscow, has a system of dealing with crime that has features common to both this country and Soviet Russia.

The general status of this young lawyer himself is revealing. Only 28 years of age, he spent four years at the University of Belgrade before being appointed to the post of full-time magistrate, in some respects equivalent to that of a stipendiary magistrate in this country. The voluntary scheme of justices of the peace that we understand, does not prevail in the new Jugoslavia—all the magistrates in the people's courts being trained lawyers and full-time salaried employees of the people's committees (municipalities).

The son of a High Court Judge in the old régime, he holds a card showing his membership of the Communist party which, he told me, does not hold regular or periodic meetings. Meetings are convened by higher authority when considered necessary. In point of fact, the party at top level invariably calls local groups together when they require a "popular and unanimous" decision in support of some new action contemplated by the State.

One sensed that his party membership was nominal rather than real, though he also served on the committee for the trade union. The trade union, called the syndicate, caters for all types of workers, ranging from university professors to agricultural labourers. Membership, however, is not compulsory, the operative word now being "voluntary."

The remuneration of this young magistrate graphically illustrates both the general living standards of this still economically backward country and the relations of his salary to that of other citizens. His monthly salary is just over 22,000 dinars—about £6 weekly, while that of his secretary is 15,000 dinars—a gap that is much narrower than between two comparable positions in Britain or the U.S.A.

Roughly speaking, the salary of a lawyer is about one-third higher than that of a skilled manual worker, though a higher rate of taxation has to be paid.

As with most Jugoslav professional men, he has no car or cycle. His living standards are frugal and austere. I observed that he owned no camera; that he had no more than one spare set of clothes, and that he followed those leisure pursuits that cost little money—chess, the reading of translated English thrillers (Dorothy Sayers being a firm favourite) and radio listening. His night out for the week appeared to be a visit to the cinema, an English or American film being preferred.

He contrasted, though with no bitterness, his own meagre standards as a lawyer in Jugoslavia, with a man of similar

status in Britain where, he said, he would have greater social standing in the community, a car, a television set, and opportunities for travel.

He did admit that some of the private lawyers in the country were " doing very well," but he had no wish to leave the security of his post as a salaried magistrate.

In the three weeks I was with him I learnt of his daily cases and of the sentences he had imposed. These sentences are largely fixed by the state—in most cases all he had to do was to refer to the list. Where a particular crime had not been anticipated in the statutes he could not create a precedent, but had to have it referred to the Republican Government to be officially listed.

Pick-pockets, prostitutes and wife-beating, loomed large in his daily routine.

Prostitution is still fairly widespread in Belgrade, Zagreb, and Ryeka. Its origin, it is claimed, lies in the strict puritanical atmosphere of the typical Serbian family, particularly the peasant family. No army, for instance, had a stricter sex code than the Partisans during the national struggles against the Nazis. A partisan could be shot for having sex relations with a girl partisan, even though he could prove he was genuinely in love with her.

A girl in a village would find herself pregnant. Her young man would, because of local scandal, disappear. Her parents, on learning of her misfortune, would immediately order her out of the house. With no money or friends to help her, the girl would make for Belgrade. She would soon slip into prostitution by hanging around hotels and night clubs in the hope of meeting wealthy visitors to the city. As with many explanations of social problems in Jugoslavia I found this an over-simplification. With the increase in divorces, for instance, to simply lay it at the door of the housing shortage in Belgrade is to ignore so many other social and economic factors.

The police have all the prostitutes listed. From time to time they enter a hotel or night club and order out a particular girl they are watching. When arrested, the girl may avoid imprisonment by taking up normal industrial employment. Normally, a month's imprisonment is imposed for the first offence, with increasing periods imposed for subsequent charges. In prison she may take training for outside work afterwards, but this is not compulsory. But if she does take up training then she has a more comfortable bed, better toilet facilities, more wholesome food and better conditions generally.

At any one time there are more prostitutes in prison than out of it.

The authorities take the view that the prostitute will soon come to her senses and recognize that she is spending more time in prison than outside. Many former prostitutes, it is claimed, have been " cured " and are in ordinary employment or happily married.

Drunks, however, are treated more leniently. In the hot afternoons during the long summer, peasants who have moved into Belgrade to take up work in the new factories, will sit for long periods in the shaded garden restaurants consuming the national drink—slivovitz. Again, I was told that many are simply escaping from overcrowded dwellings. If they become drunk the usual procedure is to put them in a cell for the night and let them go home or to their work the following morning.

Centres for alcoholics have been set up where medical treatment and injections are given. Many, it is said, have been weaned away from their dipsomania.

Drugs and narcotics are under the most stringent forms of control.

Pick-pockets, regarded with horror, usually receive a four-year sentence.

It seemed strange in a Communist country to learn that Teddy boys have become a serious problem. Some wear the western style of Teddy boy clothes, but on the hinterland of this social group are the fake artists and dilletanti bohemians —young men sporting beards, in casual colourful clothes, standing nonchalantly at street corners. For causing disturbances at dances a month's imprisonment is usual. For the second offence, four months might be given.

A group of these Teddy boys were sentenced to one year's gaol for what the Jugoslavs regarded as a most reprehensible crime. Cinemas in Belgrade are so popular that all seats have to be booked, personally, well in advance. The Teddy boys in question booked several of these seats at a large cinema and re-sold the tickets at a profit. The wrath of the whole populace was so great that no one seemed to think the sentence unjust.

Wife beating is another common offence. Formerly accepted as part of the lot of the peasant wife, more wives are now reporting physical cruelty by husbands. A first offence might mean a fine of between 1,000 and 5,000 dinars, between say, £1 and £5.

Curiously enough, capital punishment for murder has not been abolished in the country. But as with many other countries, the penalty is now rarely imposed, the last one being four years ago. Where the sentence is imposed an appeal to the High Court invariably results in remittance to life imprisonment.

It is a proud boast of the Jugoslav forensic minds that only two murderers have remained uncaught since 1946. This is attributed to sound police investigation. One somehow doubts the claim, but yet one is in no position to prove the contrary.

What was consoling was to find the police being trained to act like the British bobby—a friend of the people—not the master.

Clearly, since the break with the Kremlin, Jugoslav eyes have turned more and more to Britain for ideas and influence. The attempt is probably sincere in view of the sentence of two years imposed on a policeman who chased a man in some woods—it being said he was raping a girl. The man resisted arrest by pointing a gun at the policeman who defended himself by shooting and wounding the rapist.

" Humanism is what we want in our legal affairs, not bureaucracy," said my young lawyer host. Proudly, he told me of the sentence imposed on a detective who struck a thief a hard blow. The detective was sentenced to four years and dismissed from the service. The court told him that meting out punishment was not his function, but that of the accredited courts. I was reminded that these sentences might not have been applied a few years ago.

Jugoslav policemen, however, lack popular authority. Their appearance is nondescript. Mostly of only average stature, they wear a somewhat shabby linen suit, hardly a uniform, and a peak cap that is barely distinguishable from the many other peak caps worn by postmen and tram conductors.

It is in the attitude towards the motorist that one finds the most glaring contrast to Britain. In Belgrade, the faintly-painted zebras are ignored by motorists and all vehicle

drivers, and not accepted by pedestrians. Lorries hurtle past while people wait on the zebras. The local authorities cannot get the idea of such a facility for pedestrians established in the minds of the community, so the zebras are fading away for want of public approval.

Motorists in Britain are always complaining that the police are "after" them with petty restrictions and regulations. But in Jugoslavia where the motorist is in a minority and free to drive almost as he pleases, driving is probably the worst in Europe. Because of dangerous driving, the accident rate is high in relation to the total number of vehicles on the streets. Most drivers use their horns persistently and loudly, on the assumption that this gives them right of way at any speed. They negotiate bends and corners on the same principle. There is no question, aside from the safety of the public, of charging these vehicle drivers with creating a public nuisance because of their wanton use of the horn.

Similarly, with the crowds at the street-car stops where, instead of a queue, there is usually a circle of people. Considerable pushing and jostling takes place before all are on the tram. The first one to be at the stop is often the last on the tram, or even elbowed rudely out of place altogether. If policemen have little social influence, tram conductors have even less.

It is, indeed, a strange irony, that in a one-party state, where the citizen is subjected to an iron discipline in terms of his political thinking and political actions, there appears to be a lack of real social discipline based on an appreciation of the responsibilities of the individual to the community as a whole. Conversely, in England, where a man will fight to the last ditch for political or religious freedom, he will readily accept the most irksome restrictions in his daily life in the interests of public well-being and behaviour.

In the long run, it is not the legal system of Jugoslavia that will produce well-behaved citizens, though obviously punishment has certain negative benefits. The raising of the whole cultural climate of the people as a whole will take more than one generation to achieve.

THE TOWN AND COUNTRY PLANNING BILL

PART I. COMPENSATION FOR COMPULSORY ACQUISITION OF LAND

(*Continued from p.* 819, *ante*)

Clause 3 of the Bill deals with special assumptions as to planning permission in respect of certain land comprised in development plans. It, therefore, reinforces cl. 2 which provides the general assumptions on this score. For example, land might be bought compulsorily for a quite unremunerative type of purpose, but the development plan might indicate that residential or commercial development would have been permitted if the land had been left with the owner. In such a case market value should mean the value for that residential or commercial use. The first special assumption relates to land defined in the development plan as the site of specified development. Planning permission is assumed for the specified development (cl. 3 (1)).

Subclause (2) of cl. 3 deals with cases where the relevant land consists of an area shown in the development plan with a primary use. In this instance the planning permission to be assumed is for development which (*a*) is development for the purposes of that use of the land and (*b*) is development for which planning permission might *reasonably be expected to be granted*.

Subclause (3) of cl. 3 applies the immediately foregoing considerations where development within a range of uses is being considered. This happens in some central areas of cities.

Land subject to comprehensive development is dealt with in cl. 3 (4). The solution proposed by the clause is that in valuing the land account is to be taken of the new uses envisaged for the area, but the scheme itself and the proposed distribution of uses is to be ignored. This means an assumption that whichever bit of the land is being bought is being sold in the open market with permission for one or other of the uses envisaged by the area—whichever would be reasonable in the circumstances; and that the circumstances are the existing circumstances, that is to say, the lay-out is the old lay-out and the re-development scheme is not in the picture (*see* also cl. 3 (5) and (6)). Subclause (7) contains definitions of "the current development plan" and "land subject to comprehensive development."

Clause 4 of the Bill establishes a procedure for obtaining a certificate saying what development, if any, might reasonably have been expected to be permitted if the land were not proposed to be acquired compulsorily. Under subcl. (1) where land is proposed to be acquired compulsorily by a public authority and that land does not consist (*a*) of an area of comprehensive re-development or (*b*) of an area with a primary use allocated under the current development plan the person entitled to the land or the proposed acquiring authority may apply to the local planning authority under the clause. The proviso to this subclause provides a time limit for applications. An application for a certificate under cl. 4 must specify one or more classes of development which would in the relevant circumstances be appropriate (subcl. (5)). The requirements for a certificate under the clause are set out in subcls. (4) (contents) (5) (permission subject to conditions) (6) (land outside area of comprehensive development of land allocated to a primary use under the development plan) and the service of copies of the certificate upon other parties concerned (subcl. 7).

Clause 5 enables appeals against certificates under cl. 4. These go to the Minister and may be promoted by a person entitled to an interest in the land or by an acquiring public authority equipped with compulsory powers. In the event of such an appeal the Minister may confirm, vary or cancel the certificate or issue a different one in its place (cl. 5 (2)). Clause 6 (3) enables the Minister to treat applications for planning permission as applications for certificates under cl. 4 in appropriate circumstances. It would be a waste of time for certificates to be applied for if there was no firm intention on the part of a public authority to buy the land in the near future.

Clause 7 of the Bill makes some important modifications of the rules for the assessment of compensation which supplement those under the Act of 1919. The clause is to be read in conjunction with sch. 1 to the Bill which provides for taking account of increases in value of contiguous or adjacent land. Subclause (2) and cl. 7 sets out a table and provides

that in the cases mentioned in the first column of the table "no account shall be taken of any increase or diminution in value of the relevant interest which is attributable to the carrying out of any such development as is mentioned in relation thereto in the second column of that table or to the prospect that any such development will or may be carried out . . ." The limits of the scheme for the purposes of this rule are defined in the table to subcl. (2) which extends it to the development of all other land within the defined area (*a*) for areas of comprehensive development (*b*) new towns and (*c*) Scottish town development schemes.

Subclause (3) makes general and extends a principle which is at present applied to acquisitions under the public Acts mentioned in para. 1 of sch. 1 to the Bill and under many local Acts. When land is acquired compulsorily, the scheme for which it is taken may enhance the value of other land held by the owner of the land taken. The subclause provides that this enhancement shall be set off against the compensation paid for the land taken.

Subclause (5) protects the owner whose land is being acquired from the effect on his compensation of any depreciation caused by the threat of acquisition itself.

Clause 8 applies sch. 2 of the Bill to compensation in respect of houses unfit for human habitation. It is designed to deal with the anomaly that the compensation for acquisition of a house unfit for human habitation could under the Housing Act, 1957, exceed the compensation which would be payable if the house was not unfit at all. Paragraph I of part I of the schedule makes the full market value the limit of the compensation payable.

Clause 9 of the Bill deals with war-damaged land, and cl. 10 with payments to persons displaced from a house in connexion with a compulsory acquisition.

Clause 12 of the Bill is aimed at achieving a more rational situation in relation to long-standing notices to treat. Once a notice to treat has been served although either party can force the matter to a conclusion, neither of them need do so. This has, therefore, led to there being large numbers of notices to treat which have never been pressed to completion. In cases where such notices were served before 1947 compensation has to be assessed at pre-war or (in some cases) wartime values. Clause 13 or 14 therefore set a time limit for the exercise of powers under notices to treat and enable landowners under certain conditions to obtain compensation on a more realistic basis.

Clause 12 applies, therefore, to every notice to treat served before August 6, 1947, with certain conditions set out in the clause. (Acquisition not completed by the vesting of the land, no exercise of right of entry, no acceptance of compensation, no determination of amount of compensation and no withdrawal of notice.) Under subcl. (2) of the clause if a public authority intend to proceed with the compulsory acquisition in pursuance of a notice to treat covered by the clause they must within six months from the commencement of the Bill serve a "notice of intention to proceed," and if at the end of the stated period no such notice has been served the notice to treat shall thereupon cease to have effect. Subclause (4) provides for the lapse of a notice if after one year from the date of service the compensation has not been agreed or determined. Clause 13 of the Bill goes into the rights of owners where notice has been given of intention to proceed. Under cl. 13 in respect of an "original notice to treat" the person entitled to the interest may elect that compensation shall be assessed as if the original notice to treat had been served on January 1, 1958. Any such election must be signified by a notice of claim (under s. 5 (2) of the 1919 Act) given within six months from service of the notice of intention to proceed. The effect of compliance with subcl. (4), *supra*, is that compensation law applies as if the original notice to treat had been served on January 1, 1958. Clause 14 and sch. 3 deal with additional compensation for new planning permission in respect of the land acquired. Such cases might arise, for example when land is bought for housing purposes at housing price but later industry is permitted there. Clause 14, therefore, provides that the owner can claim additional compensation, but only if the new planning permission is obtained within five years of the completion of the acquisition (subcl. (1)).

The general principle adopted is that the owner will be entitled to claim for the acquiring authority the additional compensation, if any, which he would have received if the new permission had existed at the date of notice to treat (subcls. (2) and (3)). Areas of comprehensive development or of new towns are excluded from the effect of the clause (subcl. (4)). The additional payment may include compensation for severance or injurious affection of other land held with the land taken (subcl. (6) and sch. 3).

The procedure established by cl. 15 necessitates some means by which *new* planning permissions can be brought to the notice of the original owners concerned. Owners can give the acquiring authority an address for service and the acquiring authority is then required to give notice to the owner at that address if any new permission affecting him is given. An owner who has not given an address for service can make his claim for additional compensation within six months of the date of the new planning permission. An owner who has given an address for service can claim within six months of being notified (subcl. (3)).

Clause 16 deals with the application of cll. 14 and 15 to Crown development.

ADDITIONS TO COMMISSIONS

KENT COUNTY

Jack Bones, Wells Farm, Eastry, Sandwich.
The Hon. George Hugh Boscawen, Graythwaite, Mereworth, nr. Maidstone.
John Boyce, Wellesley House, Broadstairs.
John Huxley Buzzard, Haxted House, Edenbridge.
Mrs. Sylvia Lucy Cameron, Woodham, Hawkhurst.
Mrs. Elsie May Clinch, 87 Rock Road, Sittingbourne.
Henry James Diprose, 67 Ditton Park, Ditton, nr. Maidstone.
Mrs. Alice Freda Dowling, Kildair, Snodland.
Mrs. Doreen Ethel Gault, Freizeley, Cranbrook.
Andrew Aitken Gray, Combe Cottage, High Road.
Remy John Barcham Green, Grey Walls, Sutton Valence, nr. Maidstone.
Cecil Jamieson Harvey, 39 Danson Road, Bexleyheath.
Frank Henry Hunt, 34 Hurst Road, Erith.
Edgar Frank Knight, 95 Marine Parade, Sheerness.
Cloudesley George Bullock Marsham, Broadfield Farm, Plaxtol, Kent.
Guy Murton Minter, Langdon Court, Faversham.
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Mrs. Barbara Lythgoe Papillon, Acrise Place, nr. Folkestone.
Mrs. Katharine Grisell Pasteur, Fairseat House, Fairseat, nr. Wrotham.
George John Russell, Hillcrest, Warren Road, Southfleet.
Francis Augustus Smith, 10 Wheathill Road, Anerley, S.E. 20.
Michael Jeffrey Wellard Smith, The Hall Farm House, St. Nicholas-at-Wade, nr. Birchington, Thanet.
Mrs. Mary Elizabeth Stevens, Wanstalls, Patrixbourne, Canterbury.
Commander Rupert Cunninghame Taylor, R.N. (retd.), Lughorse, Hunton, Maidstone.
Mrs. Cynthia Bellairs Thorn, Green Lawns, St. Peters, Broadstairs.

CHIEF CLERKS CAN BECOME SOLICITORS

By ONE WHO DID

Should a town clerk be a solicitor? For years the controversy has raged, but no satisfactory answer has been given. Solicitors naturally say "Yes." Chief clerks without legal qualifications naturally say "No." Many of the latter have reached their present status after long and loyal service, possessing the D.P.A., D.M.A., and other excellent administrative qualifications, yet now feel frustrated because they can rise no higher. The chairs of the town clerk and the deputy are not open to them because they are not solicitors. Most of them were denied the opportunity of becoming a solicitor when they left school or university, because of financial or domestic restrictions. Local authorities generally benefit from having a solicitor as town clerk. They save salaries by combining the two posts. They get the benefit of their principal officer being able to advise them legally. The alternatives for the local authority are either to employ an outside firm of solicitors, which increases the expense and deprives them of legal advice on the spot in the office, or to employ a solicitor on the staff, with or without chief officer status. The latter can be an unhappy arrangement, and lead to a conflict of functions between the town clerk and solicitor. Their duties are not readily divisible into watertight compartments. From the employer's point of view, therefore, the town clerk-solicitor is the best arrangement, and for this reason I feel it has come to stay.

I joined the local government service in 1938 as a junior clerk in the town clerk's department. By 1955 I had attained the rank of chief clerk. I had served under three town clerks, all of whom were solicitors. Having got so far, I could see no prospect of promotion as the next natural stepping stone —becoming a deputy town clerk or town clerk—was barred because I lacked a legal qualification. I was then aged 34, with a wife and two small children. I had several examination qualifications but not a legal one. What should I do? I could, like many others, grumble and protest about the unfairness of the system; that might "let off steam" but it would not make me a town clerk. I could start a campaign to get the system changed, but inwardly I felt that the system was in the best interests of the local authority, if not of their chief clerk. The only other alternative as I saw it was to become a solicitor. I was told I was too old, my family ties too great; I couldn't afford it, it would mean a great mental and physical strain—in fact, so the critics said, it was beyond me. Nevertheless I felt it was at least worth exploring. I didn't relish staying as a frustrated chief clerk for the rest of my life.

The Law Society, the governing body for solicitors, supplied me with the rules and regulations which I studied diligently. The normal period of articles is five years, some of which must be spent full-time at a law school. The prospect was gloomy, but closer examination brought to light a number of exemptions from these requirements. There is a reduced term of three years, *inter alia*, for those possessing a law degree of a recognized university, or for those who have been for 10 years a *bona fide* clerk to a solicitor and who can produce to the Law Society satisfactory evidence that they served as such. The latter alternative was available to me, and I was able to produce the necessary evidence to satisfy the Law Society. The reduced term of three years also gave exemption from compulsory full-time law school. The consent of the Law Society was also necessary to enable me to continue my employment. This I obtained, subject to an undertaking from my town clerk that my duties would be re-arranged if necessary during my articles, in order that I should obtain full instruction in legal work. So far so good. I now approached my town clerk with a formal request to be accepted as an articled clerk. This was readily granted with no "strings" attached. The council not only gave its blessing but also granted my request for financial assistance under para. 8 of the Purple Book, subject to the usual undertaking that I remain in their service for two years after qualifying, if there was a vacant post. This was of great help and during my training I received grants from the council of approximately £80. All that remained was for me to pass the examinations. I started in August, 1955, full of hope because of the encouragement and help received from my council, the town clerk, the Law Society, and many others. The syllabus is heavy. Fortunately I secured exemption from the Preliminary because of my other qualifications, which left the Intermediate in two parts, and the Final. There is also an optional honours examination taken the week after the Final. In November, 1955, I sat and passed the first part of the Intermediate—only three months after starting. This was encouraging indeed. In June, 1956, I passed the rest of the Intermediate with a first class pass—less than a year after starting. The biggest hurdle remained —the Final. I set myself the target of taking it in June, 1958—a period of two years. It comprises seven three-hour papers, followed if desired by the honours—five three-hour papers. I had to rely on a correspondence course, but it was a very good one. It involved "swotting" three hours a night for six nights a week, and even more near the end. This on top of a full day at the office, although much of my work was "training" because the re-arranged duties gave me more legal work. My wife and children co-operated fully, by relieving me of domestic chores. The pace grew hotter towards the end. A lot of annual leave was sacrificed for "swotting" until June, 1958, arrived. I had covered the syllabus. I felt reasonably confident. The worst period was waiting for the result. It was published in *The Times* on August 14. I was on holiday in Bognor Regis. It had rained all the week, but my name was there. The rain didn't matter any more. A week later the honours results were published. I just crept in the list with a third class pass. I had pulled it off—or rather the family had pulled it off. It was a joint enterprise. Sherry at the office. Telegrams and letters from far and wide. The council had no vacant post to offer, but as a token of recognition of my efforts they gave me a double increment and released me from my two year undertaking. On October 1, I was formally admitted to the roll of solicitors of the Supreme Court. I am not yet a town clerk, or a deputy. But the door is no longer closed. I no longer feel frustrated. Are you a chief clerk complaining that town clerks need not be solicitors? Then don't. Read the requirements of the Law Society and have a chat with your town clerk. I passed at the age of 37. I know two colleagues who are doing the same thing and they are well over 40. It is never too late to start. Try now.

MISCELLANEOUS INFORMATION

ROAD CASUALTIES—OCTOBER, 1958

Casualties on the roads of Great Britain continued to rise with the volume of traffic in October. Deaths numbered 588, an increase of 51 on the figures for October, 1957; the seriously injured rose by 676 to 6,300. There were also 19,833 slight injuries, an increase of 2,437. The total for all casualties of 26,721 is 3,164 more than in October, 1957, an increase of 13½ *per cent.* Traffic on main roads, as estimated by the Road Research Laboratory, was 12 *per cent.* heavier than a year ago. The number of new vehicles registered for the first time was just over 85,000 or about 16,500 more than in October, 1957, and there were about half a million more motor vehicles on the road. This was reflected in the casualties to drivers and passengers. The figures for drivers and passengers in vehicles other than motor cycles show that 141 were killed, an increase of 30, and 8,747 injured, an increase of 1,046, making a total of 8,888, or nearly 14 *per cent.* more than in the previous October.

Casualties to motor cyclists and passengers, other than riders of mopeds, showed a similar percentage increase with a total of 6,959, but the number of deaths was unchanged at 132.

There were 4,451 casualties to children, including 75 deaths. Compared with October, 1957, these are increases of 1,088 in the total and of 30 in the killed. Child casualties a year ago were unusually low.

During the first ten months of 1958, 4,737 persons were killed, 56,168 seriously injured, and 184,876 slightly injured. The total of 245,781 is 20,953 more than in the same period of 1957.

DISABLED PERSONS—REHABILITATION AND RESETTLEMENT

A review of the progress made in carrying out the recommendations of the Piercy Committee of Inquiry into the rehabilitation and resettlement of disabled persons is contained in the third report of the Standing Rehabilitation and Resettlement Committee of the Ministry of Labour and National Service.

The Piercy Committee found that in the field of local authority welfare services for the disabled there was a need for fuller and better provision and scope for considerable development. The Minister has therefore encouraged local authorities to develop their services on the lines recommended by the committee and has urged the relatively small number of authorities who have not yet done so to give renewed consideration to the making of arrangements for promoting the welfare of the handicapped.

Since 1948, 38,000 disabled persons have been trained by the Ministry of Labour and placed in the trades for which they were trained, and 700 have received grants for professional training. Eight hundred blind persons have had a training course in engineering processes and most of them have been placed in open industry. In the past eight years the register of disabled persons has decreased from 930,000 to 730,000 names. This decline has been concentrated among the men who were first registered as disabled as a result of service in the 1939–1945 war, but who have not renewed their registrations. It is stated in the Ministry report that many of these men seem to have decided that they can get and hold a job in full competition with those who have never been disabled, without the help afforded by the Disabled Persons (Employment) Acts.

CARE OF EPILEPTICS

A memorandum on the care of epileptics was prepared for the Central Health Services Council by the standing medical advisory committee and has been published by the Ministry of Health. It is thought that there are about 180,000 epileptics in England and Wales. About 70 *per cent.* of cases occur before the age of 20 and 85 *per cent.* before the age of 25. It is pointed out in the memorandum that if an accurate diagnosis is made early, if the fits are then adequately controlled with the drugs now available and if the social services are properly used nearly all patients can live in the community with little limitation of normal activities. Amongst the services which can help are the local authority health, education and welfare services, the resettlement and employment services of the Ministry of Labour,

FINES SURVEY FOR THREE YEARS

Offence	1955			1956			1957			*For three years*		*Position over three years*		
	No. of cases	*Average fine*	*Max. Pen.*	*No. of cases*	*Average fine*	*Max. Pen.*	*No. of cases*	*Average fine*	*Max. Pen.*	*Total No. of cases*	*Average fine*	*Total Max. Pen.*	*Total imposed*	*Approx. % of max.*
		£ s. d.	£		£ s. d.	£		£ s. d.	£		£ s. d.	£	£	
Speeding	104	3 1 7	20	102	3 1 9	20	246	3 7 6	20	452	3 5 1	9040	1471	16%
No lights	35	1 4 1	5	105	1 5 4	5	111	1 6 0	5	251	1 5 6	1255	320	25%
Driving without due care	83	6 16 3	40	64	8 4 5	40	81	8 17 10	40	228	7 18 11	9120	1812	20%
Taking and driving away	1	6 10 0	50	8	5 0 0	50	7	3 15 8	50	16	4 11 3	800	73	10%
No insurance	29	5 7 0	50	30	5 10 0	50	47	6 3 0	50	106	5 15 0	5300	609	11%
Dangerous driving	34	14 13 9	100	29	19 19 2	100	20	19 16 3	100	83	17 15 3	8300	1474	18%
Drunk in charge	3	22 13 4	100	2	24 15 0	100	5	19 9 0	100	10	21 9 6	1000	214	21%
Inefficient brakes	12	1 10 0	20	11	1 13 2	20	18	2 6 4	20	41	1 18 0	820	78	10%
Obstruction	7	1 7 1	20	—	———	—	35	1 5 5	20	42	1 5 9	840	54	6%
Failing to keep records	12	1 15 0	20	5	1 4 0	20	23	1 8 3	20	40	1 9 9	800	59	7%
Failing to report accident	4	4 0 0	20	—	———	—	5	5 4 0	20	9	4 13 4	180	42	23%
Failing to stop after accident	1	3 0 0	20	—	———	—	6	4 17 2	20	7	4 12 1	140	32	22%
No Road Fund licence	42	4 5 7	20	29	2 19 2	20	76	3 4 8	20	147	3 9 9	2940	512	17%
No red reflectors	11	15 10	5	5	1 2 0	5	16	13 9	5	32	15 10	160	25	16%
No horn	5	1 14 0	20	—	———	—	2	1 10 0	20	7	1 12 10	140	11	8%
Dangerous load	1	1 0 0	20	—	———	—	4	1 1 0	20	5	1 0 9	100	5	5%
Larceny	40	9 11 9	100	19	5 9 7	100	26	13 0	100	85	9 6 0	8500	790	10%
Dog worrying livestock	6	3 19 8	10	7	2 17 6	10	5	2 12 9	10	18	3 3 0	180	56	31%
Factories Act	—	———	—	—	———	—	21	10 4 0	20	21	10 4 0	420	214	51%
No wireless licence	2	4 0 0	10	1	2 0 0	10	—	———	—	3	3 6 8	30	10	33⅓%
Failing to pay National Insurance	2	11 10 0	10	2	2 0 0	10	3	3 1 4	10	7	5 3 5	70	36	51%

and voluntary organizations. The services provided by the Ministry include a voluntary registration scheme and courses of industrial rehabilitation and vocational training.

There is a reference to marriage in the memorandum. Investigation has shown that as a general rule the family incidence of epilepsy is low, but the risk that an epileptic person will have an epileptic child is on the average greater than for a non-epileptic. It is noted that the Matrimonial Causes Act, 1937, makes it possible to obtain a decree of nullity of marriage if, among other things, either party to the marriage was at the time of the marriage subject to recurrent fits of epilepsy. Certain conditions have to be satisfied before the court will grant such a decree, notably that the petitioner was unaware of the condition at the time of the marriage.

REVIEWS

The Elements of Estate Duty. Supplement to Second Edition. By C. N. Beattie. London: Butterworth & Co. (Publishers) Ltd. Price 2s. net.

The present supplement is unusually short, although it is in the standard form employed by Messrs. Butterworth. It has been made necessary by some important cases decided since the main work appeared, and by provisions of the Finance Act, 1958. The learned editor is critical of the result of *Fry* v. *Inland Revenue Commissioners* [1958] 3 All E.R. 90 in so far as the courts accepted the decision of *Re Eyre* [1907] 1 K.B. 331, and has trenchant observations to make upon the artificiality of the law revealed by *Chick* v. *Stamp Duties Commissioners* [1958] 2 All E.R. 623. But injustice produced by statutes, as the courts interpret them, can be cured by Parliament alone, and meanwhile the practitioner must have in mind any decisions which have come after the main work appeared. Any solicitor in private practice will therefore do well to obtain this supplement which embodies, as usual, a noter-up enabling the possessor of the main work to ensure that it is up to date.

The Book for Police. By Alan Garfitt, LL.B. (Lond.), Barrister-at-Law. Five volumes. London: The Caxton Publishing Co., Ltd., 25–26, St. George Street, Hanover Square, W.1. Price £12 17s. 6d.

The concept of this work was as we are told in the preface, that of Mr. Robert Lee, formerly a chief superintendent in the metropolitan police. In putting it into practice Mr. Garfitt has had the assistance of senior police officers and other specialist contributors, to whom he makes individual acknowledgements, but even so it must have been for him a work of great magnitude, and he has discharged it with such thoroughness that it is difficult to think of anything that ought to have been included but has been omitted. This is saying a great deal, as *The Book For Police* might well be described as a complete encyclopaedia containing all the information a police officer is likely to want in the performance of his duties or in the course of his studies for promotion.

The plan of the work is excellent and the five volumes are of a size that makes them quite easy to handle. The alphabetical arrangement of subjects in each part is convenient, and the paper, printing and binding are entirely satisfactory. The publishers are to be congratulated on its production, as the author is upon its content.

Volume I deals with the English legal system, police history, organization and practice, and criminal law. We notice as an example of the thorough and up-to-date treatment of the criminal law, that the alterations in the law effected by the Homicide Act, including the questions of provocation and diminished responsibility are set out clearly. The statement of the law about various types of warrant and their execution will be of practical value to police officers, who are sometimes faced with difficult problems about their powers and duties in this connexion. Since police are often concerned in appeals, these also receive adequate treatment so that they will not be in any difficulty even if the appeal is of a kind with which they are not often concerned.

The general title of volume II is Administrative Duties and Sanctions. The term administrative law is sometimes applied in relation to the duties of the police, to offences less than grave crime, and to the various functions of the police in keeping order, enforcing regulations, and sometimes giving information and assistance to persons in need of it. The subject matter of the 20 chapters ranges in alphabetical order from aliens, through children and young persons to dangerous drugs and poisons, licensing law and the various provisions for the maintenance of public order and ends with vagrants and other destitute persons. There is practical advice about referring suitable cases to the N.S.P.C.C., and even what to tell would-be adopters although the police cannot often have to deal with such inquiries. There is a useful chapter on vagrancy, including a statement of the way to help stranded or destitute persons.

Volume III is mainly devoted to Road Traffic, with which it deals exhaustively and in which a certain number of important decisions are cited. Illustrations depict the numerous road signs, signs to be given by drivers and riders and signals to be given by police officers controlling traffic. This volume also contains chapters on evidence and criminal procedure. There is some good advice to police officers on the subject of confessions.

The contents of Volume IV are as varied as they are practical. The first part of it might be described as a selection of material of general knowledge. If a policeman wants to know something about tools, jewellery and precious stones, dogs, horses, military ranks, recognized abbreviations or how to communicate with the deaf and dumb to mention only a few subjects at random, he will find here the answer to his questions. There are glossaries of legal and medical terms, and even a vocabulary of slang. Naturally there is a chapter on first aid, a subject with which every policeman and policewoman needs to be familiar and this, like some other parts of this volume, is illustrated with a number of excellent plates, some in colour. This volume also contains the general index and tables of cases and statutes.

Police officers will certainly welcome volume V as supplying a great deal of information about the various forces covering towns and villages throughout the country. Even a tiny village can be traced in the alphabetical list which shows for each place the police station concerned, the rank of the officer in charge, the division or district and the county, together with a map reference connecting this gazeteer with the complete set of maps contained in this volume. There are also a world atlas of 63 maps with index, and a guide to international communications.

The publishers claim, and we think the claim is justified, that never before has the policeman had available to him a comprehensive work written specifically to fulfil his needs for learning or reference. Without such a work of reference, it is pointed out, he may have to resort to many well-known books before finding a complete answer to some problem, and sometimes, in a purely police problem he may not find the answer in those text books, because such books have not been written for policemen.

Every purchaser of *The Book For Police* will be supplied with a booklet containing 12 coupons, each one of which entitles the purchaser to ask for information on any subject associated with police work. For this purpose the publishers have instituted an information bureau.

It has also been arranged that three annual supplements, in booklet form, will be supplied, free of charge to every purchaser, so as to ensure that the contents of the volumes are kept up-to-date in regard to changes in legislation and other matters. These supplements will be cumulative. At the end of the three year free service the supply of supplements can be arranged on a fee paying basis.

An immense amount of learning, experience and industry have gone to the making of this book. We believe it will prove its value wherever it is used and we hope it will be available if not at every police station, at least at all headquarters and other places where police officers congregate. We have noticed only one or two instances of statements which we are inclined to question, but these are so unimportant that it would be ungenerous to mention them in reviewing a work for which we have so much admiration.

Potter's Historical Introduction to English Law. Fourth Edition. By A. K. R. Kiralfy. London: Sweet & Maxwell, Ltd. Price £2 5s. net.

This is the fourth edition of a book which was designed by the late Professor Potter when he was lecturing at King's College, London. The first edition appeared in 1932, and the learned author himself was responsible for the second and third. Mr. Kiralfy, who is reader in law at King's College, has in this fourth edition avoided unnecessary alterations in the text, but has rearranged a few parts for greater clarity; in particular, he

has rearranged the chapters on the forms of action and the history of tort. He has also added some account of historical matters which Professor Potter thought unnecessary, and has enlarged the information about the Latin side of Chancery, about borough courts, and the early progress of negotiable instruments. He remarks that recent treatises on legal history have tended to overlook the law of personal status, although there are regions where it is still important even now, when felons, merchants, persons professed in religion, and many others have mainly ceased to occupy a position different from that of their neighbours. The learned editor discusses the foundation of the English legal system, going back before the Norman Conquest and ending with the modern tendency to deal with everything by legislation. He proceeds to the courts, dealing first with those which are merely an historical memory, and ending with reorganization of the judicial system in the late 19th century, and changes in the jury system in the 20th century. Having, so to speak, established the framework of development and legal administration in this way, he is free to deal with the common law itself, tracing its history from the earliest times. This part of the book falls conveniently into chapters, dealing first with sources and secondly with all branches of the law. Passing to equity, he traces its development from the days when it was administered in the ordinary course of common law, before it became the special province of the Chancellor. Having carried its history up to the so-called fusion of law and equity in the 19th century, he deals briefly with four of the many branches of equity jurisdiction as administered today. There are some features of the treatment of English legal history which may strike a reader as peculiar as, for instance, where it is said that the principal "sources" of common law are statutes and case law. To say that this is peculiar is, however, really to emphasize the ambiguity of the expression "common law"; more often, perhaps, people think of "common law" as the law administered in the common law courts, than (nowadays) of case law as opposed to statute. Again, between the description of the courts and the history of the law itself, the learned editor has interposed an interlude on substantive law which comprises paragraphs on statutes, property, tort, contract, and criminal law—a curiously mixed bag to be compressed within 10 pages. However, those 10 pages are very much worth reading, and the capacity of the original author and his present editor for brief and clear explanation is well shown.

Ten years have elapsed since the previous edition, and in the course of that period research has cleared up some doubtful points. We do not know whether the present edition will last so long, but we see no reason why it should not. It is an admirable guide for the university student who desires to obtain a comprehensive grasp of English legal history.

ANNUAL REPORTS, ETC.

LOCAL GOVERNMENT FINANCE IN ENGLAND AND WALES

Statistics, 1956–57

The cost of running local government services, other than trading services, in the financial year 1956–57 was £1,315¼ million—an increase of £154 million compared with the previous year.

These figures are among details of the income and expenditure of English and Welsh local authorities for the financial year 1956–57, presented to Parliament by the Minister of Housing and Local Government. Other changes noted in the statistics include an increase of £27¼ million in payments made by council tenants and those making use of other rate fund services. The income from rates rose by £92 million to £494¼ million. Government grants, including capital grants, rose by £69¼ million to a record level of £578 million.

Capital expenditure, at £533¼ million, was higher than in 1955–56 by nearly £11¼ million. This figure includes nearly £65¼ million for advances on mortgage to private individuals for house purchase. The turnover of the trading services again increased to £195 million (£183¼ million in 1955–56). Debt, after deducting sinking funds and sums repayable for nationalized services, amounted at the end of the year to over £4,586 million—an increase in the year of some £394 million. The remuneration of local government officers and employees cost over £717¼ million —an increase of over £75¼ million.

LOCAL POPULATION ESTIMATES FOR 1958

The Registrar-General published on Thursday, December 11, 1958, his estimates of the population of counties, boroughs, and urban districts in England and Wales as at June 30, 1958. Figures are given for the standard regions, conurbations, and urban and rural aggregates, and by sex and age for England and Wales as a whole.

The home population of England and Wales as at June 30, 1958, is estimated at 45,109,000, of whom 21,744,000 were males and 23,365,000 were females. The total shows an increase of 202,000 over the figure for mid-1957.

Among the regions, the larger relative increases in population since 1957 were again in the eastern (a rise of 69,500 or two *per cent.*) and in the southern (a rise of 32,000 or 1·1 *per cent.*). The smaller increases were in Wales (a rise of 4,000 or 0·15 *per cent.*) and in the south-western region (a rise of 5,500 or 0·18 *per cent.*). These percentages compare with 0·45 for England and Wales as a whole.

WALSALL FACTS AND FIGURES, 1957–58

Mr. D. H. Charlesworth, M.B.E., F.S.A.A., F.I.M.T.A., has published another in the series of his excellent annual booklets giving "Facts and Figures" about local authority service in this midland county borough of 115,000 people.

Rate poundage was 16*s.* 6*d.* There are 33,500 domestic hereditaments out of a total of 39,000 and the great majority of these fall into three classes. On the first—up to £10 rateable value rates cost 3*s.* 2*d.* a week, the second class covers hereditaments with rateable values exceeding £13 and up to £18 and the third over £18 and up to £25. In these classes for example a house with rateable value of £16 pays 5*s.* 1*d.* weekly and for one of £25 the rate charge is 7*s.* 11*d.*

The gross cost of services was £2¾ million, of which about a third fell on the ratepayers, being a charge of £7 9*s.* per head of population.

Net loan debt totalled £15 million, of which £11¾ million was for housing. The average rate of interest paid was 3¾ *per cent.*

The transport undertaking produced a profit of £24,000. Its problems are high-lighted by the statistics of number of passengers carried: in 1950 the total was 81½ million, whereas in 1958 it had dropped to 70¼ million.

The corporation has built close on 15,000 houses and flats. The great majority of these are three-bedroomed non-parlour houses, the net rents of which vary between 9*s.* 3*d.* and 16*s.* 9*d.* for inter-war houses and between 15*s.* and 27*s.* for post-war. Rebates from maximum rents are granted to tenants who qualify under the assisted rent scheme, subject to no tenant paying less than the minimum rent. No rate subsidies were given in 1957–58.

SWANSEA WEIGHTS AND MEASURES DEPARTMENT

The duties laid upon weights and measures inspectors are constantly increasing and, as is observed by Mr. F. W. Brown, chief inspector of weights and measures for the county borough of Swansea in his 1957–58 report, while it may be convenient administratively to combine other statutory duties of an ancillary nature with weights and measures work, the maintenance of the principal functions of the department is a primary responsibility. In fact 3,811 visits were made during the year which were not concerned with weights and measures administration.

The general condition of weighing instruments in use for trade in the lower range of capacities was good, just under six *per cent.* being rejected for repair and restamping. The more severe wear and tear experienced by weighbridges, etc., and the lower standard of maintenance given to these machines was reflected in the fact that nearly 28 *per cent.* of the trade weighbridges in the borough were found incorrect in relation to statutory allowances. Quite a number of users appear to rely on the inspectors of weights and measures to keep them acquainted with the condition of their machines rather than the assurance of a maintenance contract.

There was a continuance of the high standard generally in the packing of food in relation to the weight values declared. There was only one prosecution in respect of deficiencies in pre-packed food, and this case concerned a wholesaler. Here it was amply illustrated that ineffectual supervision of mechanical packing can result in the mass duplication of serious errors such as could scarcely occur in hand packing.

Selling by price and not by weight is a practice that ought to put the customer on his guard. This report says that a noticeable feature of the Christmas trade was the growing practice of selling packets of apples, nuts, etc., by price, and not by weight. As a matter of interest identical types of apples were purchased. Three in a plastic bag cost 1*s.* 5*d.*, whereas four similar sized apples of the same variety and quality and sold by the pound were purchased for 1*s.* 6*d.* From casual observation it was noted that the purchaser often inquired whether the package represented a standard weight.

Mr. Brown wishes that the spirit as well as the letter of the Merchandise Marks Act was more strictly observed. The conspicuous display of a brand sign suggesting that the commodity is home produced or of local origin, often has to give way he says, on the reverse of the package to a small inscription stating that the food is either imported, or at best, blended. Dairy products suffer particularly from this form of misrepresentation. He utters a word of caution about the use of flannelette. As he points out there is no obligation under the Fabrics (Misdescription) Act, 1913, or regulations to mark any fabric with a statement of non-inflammability. It is noteworthy that despite the high inflammability of flannelette, it is still widely purchased for children's nightwear, although there are many other modern textiles claiming flame-proof qualities.

JUSTICE AND TEMPERANCE

"Tea, although an Oriental,
Is a gentleman at least;
Cocoa is a cad and coward—
Cocoa is a vulgar beast."

So sang G. K. Chesterton, who believed in a robust enjoyment of good things of life. *The Flying Inn* (1914), from which the above lines are selected, poured scathing ridicule on the teetotallers, who were particularly active at that time. Like many another heresy, this joyless cult is sustained upon the fallacy that, because a minority of weak-minded persons are at times unable to control their appetites, the opportunity for *any* indulgence whatsoever should be forbidden to *everybody*. As well place a universal bar upon succulent food because there are some gluttons in the world.

The association of teetotality with cocoa may not be immediately obvious; but Chesterton's views are evidently well-known to Mr. Justice Harman. During the recent hearing of *Trustees of the Dean Leigh Temperance Canteens* v. *Inland Revenue Commissioners* his Lordship let fall a number of *obiter dicta* which would have done credit to the former Lord Chief Justice. Counsel for the appellants opened his argument with the observation that the overriding purpose of the canteen (which is situated in Hereford) is the promotion of "temperance," and that this is supported by the provisions of the trust deed; in his submission the trusts were "therefore" charitable but, if they were not, they were saved by the Charitable Trusts Validation Act, 1954. The learned Judge at once questioned whether the Act "had anything to do with cocoa." Upon being informed that the canteen was instituted in 1917 to sell coffee, tea, milk and light refreshments to cattle-drovers and others attending the market, as some counter to the dreadful temptation of the 15 licensed public-houses in the vicinity, and that "the profits were devoted to promoting the canteen business and temperance generally," his Lordship observed testily that "they could have increased the size of the cup of cocoa and so got rid of the profits." When counsel proceeded to explain that 3,000 hot drinks were sold each market day, that drunkenness had declined, and that the canteen was of benefit to the community at large because it was open to everyone, the learned Judge remarked:

"So is Lyons's Corner House; but that is not a charity!"

One sees at once what Chesterton means when he places good wine at the summit of the standard of good living, and cocoa at the bottom but, historically, the contrast was not always so marked. When Cortes came to Mexico in 1518, he found that the Aztec inhabitants were accustomed to prepare a beverage from the fruit of the *cacao* plant; the drink was known by the Aztec word *chocolatl*, and it had a definitely inebriating effect. It is one of the things that has fallen in quality and estimation in these decadent days.

His Lordship, however (if we may respectfully say so), hit the nail on the head by the comment "I suppose you use 'temperance' in its perverted sense of 'abstinence'?" And, he continued, it would appear to follow from counsel's argument that all teetotallers are "charitable." "As far as I know, teetotality does not induce a charitable frame of mind; it is often the very opposite."

Nevertheless, the word "charitable" bears, in a court of equity, a narrow and technical significance. As the judgment showed, Harman, J., was eventually persuaded that the trust was "charitable" in that narrow sense; its claim to exemption from income tax was allowed. That conclusion was not, however, attained before his Lordship had got in two further quips—first that, having considered the Temperance Trust Deed, he found it "difficult to speak with temperance of its terms"; secondly, that "promoting temperance, in its true sense—that is, diminishing excess—is charitable; but not preventing another man from having a drink at all."

The so-called temperance movement, in an organized form, is exactly 150 years old. Like so many bleak and arid disciplines, it has come to us from the New World; the

first temperance society was formed at Saratoga, in the State of New York, in 1808. Its most extreme manifestation—the prohibition movement—was beginning to rear its ugly head in the United States when Chesterton wrote *The Flying Inn*. One of his poems, about Noah and the Flood, bears topical reference to the dessicative atmosphere of Popular Sunday Afternoons for the English masses, and traces the atrocious habit of imbibing water from the time of the Deluge:

"But Noah he sinned, and we have sinned; on tipsy feet we trod,
Till a great big black Teetotaller was sent to us for a rod;
And you can't get wine at a P.S.A. or Chapel or Eisteddfodd,
For the Curse of Water has come again because of the wrath of God;
And water is on the Bishop's board, and the Higher Thinker's shrine
But I don't care where the water goes if it doesn't get into the wine."

The Volstead Act, purporting to enforce prohibition throughout the American Union, was passed in 1919. Observers rapidly came to the conclusion that it was more honoured in the breach than in the observance, and that its working produced as many social abuses as it claimed to cure. Its repeal, some 10 years later, was greeted with a sigh of relief as heartfelt as that which saluted the end of Cromwell's Commonwealth. In the Old World this dreary form of self-torment seems to be found only among the peoples living north of the 50th parallel of latitude, whose repulsive climate induces sullenness, despondency, dejection and gloom. Teetotality could never flourish in a sunny, cheerful, lively country like France, Italy or Spain.

We cannot leave the subject without reference to a literary source contemporary with the year of foundation of this journal. One of the most genial of the characters in *Pickwick Papers* (1837) is Tony Weller, mine host of *The Marquis of Granby* public-house in the town of Dorking; but it will be recalled that the convivial atmosphere of that hostelry was constantly marred by the partiality of Mrs. Weller towards the Reverend Mr. Stiggins, the picture of whose personality has become a model for all teetotallers since that day:

"He was a prim-faced, red-nosed man, with a long, thin countenance, and a semi-rattlesnake sort of eye—rather sharp, but decidedly bad. He wore very short trousers and black-cotton stockings, which, like the rest of his apparel, were particularly rusty. His looks were starched, but his white neckerchief was not; and its long limp ends straggled over his closely-buttoned waistcoat in a very uncouth and unpicturesque fashion. A pair of old, worn, beaver-gloves, a broad-brimmed hat, and a faded green umbrella with plenty of whalebone sticking through the bottom, as if to counterbalance the want of a handle at the top, lay on a chair beside him."

Some chapters later Mr. Stiggins (having been "got at" by some of Mr. Weller's less abstemious friends) makes a dramatic appearance, somewhat out of character, at the monthly meeting of the Brick Lane Branch of the United Grand Junction Ebenezer Temperance Association, where "the women drank tea to a most alarming extent," provoking Mr. Weller's remark to his son:

"There's a young 'ooman on the next form but two, as has drunk nine breakfast-cups and a half; and she is a-swellin' wisibly before me wery eyes."

But, regrettably, there is no reference to cocoa, either in the report of the committee or in the subsequent proceedings. The explanation seems to be that chocolate, which Cortes' countrymen introduced into Europe, remained an expensive beverage, drunk only by the upper classes, until 1853, when Gladstone lowered the import duty on the *cacao* bean to a uniform rate of 1*d*. a pound. From that time on cocoa has enjoyed a considerable, if misguided, popularity among the masses.

A.L.P.

CORRESPONDENCE

The Editor,
Justice of the Peace and
Local Government Review.

DEAR SIR,

COUNCILLOR'S PECUNIARY INTEREST

The decision of a Divisional Court (Lord Parker, C.J., Cassels and Streatfeild, JJ.) in *Rands* v. *Oldroyd* (1959) 123 J.P. 1; [1958] 3 All E.R. 344, calls for the closest scrutiny by all members of a local authority, and in particular those members who, being professional men and women, are prepared to give a good deal of their spare time in representing the electorate in local government affairs. I hope you will be able to find space for an article on the subject at a not far distant date.

When the appeal was before the Court leading counsel for the appellant appears to have pointed out that a very wide construction of s. 76 (1) and (2) of the Local Government Act, 1933, might make business at council meetings impossible: it might stultify the whole proceedings. Whilst appreciating the force of that argument the Lord Chief Justice intimated he was unable to give effect to it.

At Northampton the council of 48 is politically almost equally divided and for some years, dependent upon which party holds the balance of power, I have either been chairman or deputy chairman of the housing committee. We have over 8,000 council dwellings under our control, and from time to time general questions of policy arise, *i.e.*, features of rent rebate; sale of land owned by the council, or sale of houses to sitting tenants under the prevailing authority of the Minister; housing programmes which might compete with local private enterprise building; Housing Act grants or loans. In specific instances I have of course declared my interest (if such obtains) but it is on the wider issues that very real concern is felt on all hands.

From a personal angle the short point is whether a member of a large provincial legal practice can safely remain on a local council of which he is the only solicitor member—are not pitfalls far too great by reason of the words "or other matter?"

Yours truly,
B. C. TIPPLESTON,
Past-President
Northamptonshire Law Society 1956–7.

Dennis, Faulkner & Alsop,
32 Market Square,
Northampton.

PERSONALIA

Mr. T. E. P. Hopwood, deputy clerk and solicitor to Haltemprice, East Yorks., urban district council, retired from the council's service on November 30, last, due to ill-health. His successor is to be Mr. N. L. Lamport-Smith who will commence his duties on January 19, next. Mr. Lamport-Smith was formerly an assistant solicitor with Hornchurch, Essex, urban district council.

The two new assistant chief constables of Birmingham are Mr. William Derrick Capper, chief superintendent of the metropolitan police, and Mr. Phillip Douglas Knights, chief superintendent in charge of administration of Lincolnshire constabulary. Mr. Capper, a graduate of Birmingham University, was seconded to the Nigeria police force from 1944 to 1946 and was later an instructor at Ryton-on-Dunsmore Police College. All Mr. Knights' service has been with the Lincolnshire force.

The following probation officers have been appointed to the London probation service, following Home Office training courses: Mr. T. E. Podger, C.B.E., as from October 27, last; Mrs. M. J. Mallon, Mr. A. J. M. Carlyon, Mr. S. Moffatt, and Mr. C. A. Pusey, as from November 3, last.

PRACTICAL POINTS

All questions for consideration should be addressed to "The Publishers of the Justice of the Peace and Local Government Review, Little London, Chichester Sussex." The questions of yearly and half-yearly subscribers only are answerable in the Journal. The name and address of the subscriber must accompany each communication. All communications must be typewritten or written on one side of the paper only, and should be in duplicate.

1.—Highway—*Footpath crossed by vehicles.*

Section 18 of the Public Health Acts Amendment Act, 1907, refers to crossings over footways. I am concerned with footpath crossings for cars, etc., on unclassified roads maintained by an urban district council as highway authority. It will be appreciated that, provided a garage is of the normal size, plans are submitted for byelaw approval only and the plans must either be approved or rejected. If s. 18 of the Act is in operation, I should like to know:

1. Can the council insist upon an application for the construction of a footpath crossing when plans are approved for a garage?
2. If the party concerned fails to make application giving details of the proposed crossing, what action may the council take?
3. In the event of failure to submit details and to provide a footpath crossing, what enforcement action may the council take?

PORAL.

Answer.

1. No, in our opinion.

2 and 3. If he damages the footpath he may be prosecuted under s. 149 of the Public Health Act, 1875, or s. 72 of the Highway Act, 1835.

2.—Housing Act, 1957, ss. 17, *et seq.*—*Demolition—Weather proofing of adjoining house.***

The council purchased some old property and have demolished it. The demolition has exposed the end wall of a house under private ownership and a complaint has now been received that the demolition has caused dampness penetration. A section of the end wall of the old house has been left up and this will both support and protect the lower section of the private house. The council intend to tidy this end by concreting the top, so that it will remain weather proof and strong, but about eight *ft.* of the end wall of the private house is exposed for the first time. The relative ages of the buildings are: the old house, 280 years; the private house, 80 years.

The end wall of the private house is in 4½ *in.* brickwork only.

Is the council responsible in any way for weather proofing the end wall of the private dwelling?

PASTIN.

Answer.

No, in our opinion: *c.p.* 115 J.P.N. 142 and earlier answers there cited, including what we there said upon the merits.

3.—Income Tax—*P.A.Y.E.—Office cleaner as independent contractor.*

The office cleaner employed by the rural district council has been away sick for six months and is not likely to return. A woman is employed by another occupier of offices as a cleaner, being paid a wage from which tax and insurance are deducted. This woman has contracted to clean the council's offices in her spare time at 2*s.* 9*d.*, per hour, as and when convenient to her. An order is issued monthly to her to clean the offices as per contract. She is not an employee of the council and tax has not been deducted from the amounts paid to her. Will you please confirm that this procedure is correct or advise accordingly.

DARKAS.

Answer.

The woman "has contracted to clean the offices in her spare time as and when convenient to her." The test whether a person is a servant or an independent contractor is the degree of supervision exercised by the employer, over the manner in which the work necessary for producing the desired result is done: *Egginton* v. *Reader* [1936] 1 All E.R. 7. Today it is quite usual in towns for office cleaning to be done by a contracting firm, instead of by servants of the occupier; a charwoman is not normally thought of as an independent contractor, but there is no legal obstacle to making a contract for cleaning with an individual who will do the work with his own hands in his own time and manner. The above quoted statement suggests that this is the position here. If so, the question is correct when it says that she is not the council's employee, and they are not required to deduct tax from her remuneration. It is a question of fact. If she were an employee, the answer would depend on the amount she received per week or month: *see* the Income Tax (Employment) Regulations, 1950, s. 1, No. 453 (as amended from time to time as regards the amount), but on the facts as given to us it seems unnecessary to go into this.

4.—Landlord and Tenant—*Quarterly tenancy offered to protected occupier—Landlord and Tenant (Temporary Provisions) Act*, 1958.

A tenant, under notice to quit a dwelling-house to which the Landlord and Tenant (Temporary Provisions) Act, 1958, applies, is offered a quarterly tenancy of the house. If she accepts does the Act cease to apply to the house because she "retains possession . . . as a tenant under a tenancy . . . terminable by notice to quit given by the landlord, earlier than three years from its commencement," under the provisions of s. 1 (3) of the Act?

CILBO.

Answer.

She will still be protected by the Act, since the tenancy can be terminated by notice from the landlord earlier than three years from its commencement.

5.—Licensing—*Registered club—Intoxicating liquor delivered to members at their homes.*

A club here has circularized its members that it will arrange for deliveries of intoxicating liquor to be made direct to members' houses. Section 125 of the 1953 Act says "No person shall supply intoxicating liquor in the premises of any registered club for consumption off the premises except to a member of the club in person" and the note in *Paterson* interprets this that "if a member of a club wants to get intoxicating liquor for his consumption at home he must apply for it personally at the club: he cannot send a messenger." Clearly the last five words are correct but we are not altogether certain whether the section prevents the club delivering to its members' homes, as we think there is an argument that such supply might be said to take place in the club premises providing the member is at home to take delivery.

We should welcome your view.

NAGPA.

Answer.

The method of carrying on business outlined by our correspondent seems to us to strain the principle of the leading case of *Graff* v. *Evans* (1882) 46 J.P. 262, past breaking point. We have not been able to find any case to which we can point for guidance; but we do not think that the exception mentioned in s. 125 (1) of the Licensing Act, 1953, operates to protect any person who engages in transactions such as are described.

Our correspondent may be interested to read our answer to a Practical Point at 121 J.P.N. 439.

6.—Local Government Act, 1933, s. 76—*Disability of employee and director of building society—Housing programme, etc.*

Two members of a council's public health and housing committee are also associated with a local building society: the one as a full-time, paid secretary, the other as a director and shareholder. Are they affected by the disability imposed by s. 76 of the Local Government Act, 1933, when the committee considers any of the following matters:

1. The demolition or closing or rehousing of a tenant of a house, whether fit or unfit for human habitation, mortgaged to the society;
2. Slum clearance generally, which may or may not affect properties in which the society has an interest;
3. The council's future house-building programme;
4. The council's house-lettings policy, with particular reference to the exclusion of professional classes considered able to raise a mortgage and therefore to provide houses for themselves.

CEWCAS.

Answer.

1. Yes: *see* s. 72 (2).

2 and 3. We think this is too remote; a councillor who is an ordinary property owner would not be under disability at the stage of general discussion—but the case secondly mentioned *infra*, in answer to question 4 had to do with a discussion of policy, and caution is desirable.

4. It would be wise for the councillors to act as if under disability, looking to *R.* v. *Hendon R.D.C., ex parte Chorley* (1933) 97 J.P. 210, and the recent case of *Rands* v. *Oldroyd* (1959) 123 J.P. 1; [1958] 3 All E.R. 344.

7.—Magistrates—*Practice and procedure—Summons issued in Scotland for service in England—Proof of service.*

Sheriff's courts in Scotland issue in summary cases summonses for service in England.

What proof of service is the server of such a summons required to give? HOTINGA.

Answer.

A summons issued in Scotland for service in England is served under the provisions of s. 4 of the Summary Jurisdiction (Process) Act, 1881, and, by the definition in s. 8 of the Act, the expression "court of summary jurisdiction" includes in Scotland a sheriff. By s. 4 of the Act, such a summons is served within the jurisdiction of the indorsing court in like manner as it may be served within the jurisdiction of the issuing court. The proof of service required would therefore depend on Scots law but, in practice, we understand such summonses are often returned with the normal certificate of service attached or else they arrive for service complete with a certificate of service form, to be filled in by the serving officer.

8.—Rating and Valuation—*Arrears of rate—Property abandoned by limited company.*

A limited company occupied premises at which were made spectacle frames. About 1946 work was suspended and has not been carried on, although work benches and light machinery used are today exactly as was left on the last day of work. Until recently rates have been paid but increasing difficulty has been experienced in recovery. The managing director of the company has paid the rates due, but he constantly changes his address. A distress warrant has been issued and, on attempting to serve the distress warrant at the registered office of the company, a firm of accountants say they only hold the statutory books of the company and have no other assets.

The factory is locked and access cannot be obtained. The amount due is less than £50 at present.

(*a*) What action can be taken to recover the arrears; and

(*b*) If the caretaker enters the premises, can the council's bailiff enter with him and seize the fixed machinery for sale?

D.R.D.

Answer.

The expression "fixed machinery" is ambiguous, but we suppose there are machines detachable from the freehold. These are distrainable. The answer to (*b*) is "yes," but it may not be necessary to wait upon the chance of doing this. The council's legal adviser should consider *Hodder* v. *Williams* (1895) 73 L.T. 394. It is true that it was the sheriff who was there held entitled to break into premises other than a dwelling-house, but the reasoning seems applicable to a bailiff acting under a warrant of the magistrates.

9.—Road Traffic Acts—*Evidence—Photographs taken at scene of collision after one car has been moved—Admissibility.*

Two cars collide at a cross roads. The driver of one of the cars is summoned for driving without due care and attention under s. 12 (1) of the Road Traffic Act, 1930. The prosecuting solicitor seeks to put in evidence a book of photographs taken by a police constable who attended at the scene some considerable time after the accident occurred. Before the photographs are put in, the prosecuting solicitor states that one of the cars had been moved prior to the photographs being taken. An objection to the admissibility of the photographs is taken by the defending solicitor on the ground that one of the cars having been moved it might be prejudicial to the defendant for the justices to see the two cars depicted in a position which did not truly represent the position in which they were, immediately after the impact. A lengthy discussion as to the admissibility of the book of photographs follows, eventually the photographs are put in. At the request of the defending solicitor a note of the objection is recorded on the minutes.

It would be appreciated if an opinion could be given as to the admission of the photographs in such circumstances and references to any authorities and cases would be very valuable.

JACKO.

Answer.

The photographs, if properly proved, are admissible as showing the scene of the accident, the relative positions of various objects which may be material to the case and the position of the car which had not been moved. It having been made clear that the other car had been moved the justices would, of course, draw no inference of any kind from the position of that car as shown in the photographs.

10.—Road Traffic Acts—*Trailers—Drawing excess number—"Agricultural vehicle not constructed to carry a load"—Lime in a lime spreader as a load.*

I should be pleased if you would advise me on the interpretation of an "agricultural vehicle not constructed to carry a load."

There is a case at this court of a man summoned under the above quoted section for carrying an excess number of trailers, and the defence have put forward a plea that one of the vehicles, a lime spreader, is an "agricultural vehicle not constructed to carry a load."

Their contention is that although the lime spreader carries lime specifically for use with the vehicle, it is not constructed to carry any load extraneous to this purpose and, therefore, is "an agricultural vehicle not constructed to carry a load." The defence contends there are a number of agricultural vehicles which carry a load in conjunction with its actual performance, such as a combine harvester that carries at times a limited number of sacks of grain, and a seed hopper carrying seed for sowing, etc.

The prosecution contend that the strict interpretation of the vehicle is that as it is constructed to carry lime it comes within the ambit of the subsection.

I should be pleased if you would advise on this matter, and if there are any cases dealing with this point I should be glad if you would let me know. IBORA.

Answer.

Section 18 (2) of the Act of 1930 exempts also "any vehicle used solely for carrying water for the purposes of the drawing vehicle." We think that this implies that the water in the drawn vehicle (which is all it is constructed to carry) is a load, Also in *Lees* v. *Ravenhill* (1924) 88 J.P. 197, Lord Hewart, C.J., giving judgment on whether something was a load carried on a vehicle said "It was carrying something not a part of itself and therefore a load." Similarly, the lime is not a part of the lime spreader and constitutes a load. We think that the prosecution's contention is correct and that the lime spreader is constructed to carry a load.